

Schedule B

Barton Hill Natural Resource Protection Overlay

Section 1. Application The rules and regulations set forth in this section shall apply to the springs and aquifer which comprise the ground water source of public water supply of the Village of Schoharie and known as the Young, Dugan and Truax springs, and to any other sources which may be developed in the future to serve as ground water sources of the water supply of the Village of Schoharie.

Section 2. Definitions

- (1) Accidental Spill shall mean any intentional or unintentional action or omission resulting in an unpermitted releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of petroleum, petroleum products, septage, or toxic chemicals or substances on the watershed lands or into the waters which might flow or drain into waters of the aquifer.
- (2) Aquifer shall mean the saturated and unsaturated subsurface geologic formations which are now or may subsequently be developed for use as public water supply sources for the Village of Schoharie.
- (3) Aquifer recharge area shall mean the land area where precipitation, snow, and rain percolates directly through the ground to an aquifer, and shall consist of known sinkholes, rock outcrops, caves, fissures, crevices and similar exposures in geologic formations and any tributary to the aquifer subsequently identified and recognized by the Town of Schoharie.
- (4) Best management practices shall mean those methods and practices which are developed and adopted or promulgated by regulatory agencies including the New York State Department of Environmental Conservation, New York State Department of Health and Schoharie County Department of Health.
- (5) Chloride salt shall mean the solid compounds or the solutions of potassium chloride (commonly used as fertilizer), calcium chloride (commonly used for winter road maintenance) or sodium chloride (commonly used for winter road maintenance and water softener regeneration).
- (6) Composting toilet or dry toilet shall mean any receptacle for human excreta and/or kitchen waste which is a self-contained unit requiring periodic removal of composted, accumulated or stored material.
- (7) Fertilizers (artificial) shall mean any commercially produced mixture generally containing phosphorus, nitrogen, and potassium which is applied to the ground to increase nutrients to plants.
- (8) Ground water shall mean any water beneath the land surface that is under atmospheric pressure and that enters wells and springs serving as sources of water supply for the Village of Schoharie.
- (9) Herbicide shall mean any substance used to destroy or inhibit plant growth.
- (10) Human excreta shall mean human feces and urine.
- (11) Junkyard shall mean a lot, land or structure or part thereof, used for the collecting, storage or sale of waste paper, rags, scrap metals, used or salvaged building or other discarded material, or the collecting, dismantling, storage and deposit, whether in connection with another business or not, where two (2) or more unlicensed, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways and are not currently registered by the State of New York or any other State for operation on public highways, or are in such condition as to cost more to repair and place in operating condition than its reasonable market value prior to such repair; and are being held, whether for the purposes of resale of the vehicle or used parts or materials therefrom or not. Such term shall include any place of storage or deposit for any purpose of used parts or waste materials from motor vehicles which, taken together equal in bulk two (2) or more such vehicles.

- (12) Land application of wastewater shall mean the distribution of municipal, industrial agricultural or residential wastewater by spray irrigation, injection or direct flow, over the land surface with or without an underdrain system and point discharge(s).
- (13) Linear distance shall mean the shortest horizontal distance from the nearest point of the structure or object to the (i) extension of the centerline of the wells, (ii) nearest edge of any spring, (iii) edge, margin and steep bank forming the ordinary high water line of a water course, and (iv) nearest edge of a sinkhole, crevice, fissure, cave, exposed bedrock or similar exposure tributary to the aquifer.
- (14) Manure shall mean animal feces and urine.
- (15) Pesticide shall mean any substance used to destroy or inhibit pests such as rodents and insects.
- (16) Point source discharge shall mean discharge of pollutants resulting from facilities, systems and activities which operate under a permit issued by the appropriate state or local agency.
- (17) Pollutant shall mean dredge, spoil, solid waste, incinerator residue, sewage, garbage, refuse, rubbish, sewage sludge, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, industrial and municipal waste, manure, animal waste and agricultural waste.
- (18) Radiation shall mean ionizing radiation, that is, any alpha particle, beta particle, gamma ray, x-ray, neutron, high speed electron, high speed proton and any other atomic particle producing ionization, but shall not mean any sound or radio wave, or visible, infrared, or ultraviolet light.
- (19) Radioactive material shall mean any material in any form that emits radiation spontaneously.
- (20) Refuse shall mean all putrescible and nonputrescible solid wastes including garbage, manure, rubbish, ashes, incinerator residue, street cleanings, dead animals, offal and solid commercial and industrial wastes.
- (21) Refuse disposal area shall mean land used for the depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any part of a farm on which only agricultural associated animal wastes resulting from the operation of such farm are deposited.
- (22) Reservoir shall mean any natural or artificial lake or pond which is tributary to or serves as a source of the public water supply of the Village of Schoharie.
- (23) Septage shall mean that residue removed from onsite sewage or wastewater disposal system.
- (24) Sewage or wastewater shall mean any liquid or solid waste matter from a domestic, commercial, or industrial establishment which is normally carried off in sewers and waste pipes.
- (25) Sewage treatment system shall mean any system used for disposing of sewage and includes treatment works.
- (26) Sewage system cleaner or additive shall mean any solid or liquid material intended or used primarily for the purpose of cleaning, treating, or unclogging any part of a sewage system or any solid or liquid material intended or used primarily for the purpose of continuously or automatically deodorizing or disinfection of any part of a sewage system including but not limited to solid cakes or devices placed in plumbing fixtures.
- (27) Sludge shall mean the solid residue resulting from municipal or industrial process or wastewater or water treatment which also produces a liquid stream of effluent.
- (28) Spring resurgence protection area shall mean the area within a circle which has a radius of 250 feet from the spring, spring basin, intake or well for the Village of Schoharie.
- (29) Toxic chemical or substance shall mean any organic or inorganic substance including but not limited to petroleum derivatives, any metallic elements including the transition series, and any hazardous wastes which pose a substantial present or potential threat of producing injury or disease upon exposure, ingestion, inhalation, or assimilation by a living organism.

- (30) Treatment works shall mean any treatment plant, sewer, disposal field, lagoon, pumping station, septic system, constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary landfills or other works not specifically mentioned in this paragraph, installed for the purpose of treating, neutralizing, stabilizing or disposing of sewage.
- (31) Watercourse shall mean a visible path through which surface water travels on a regular basis. It includes springs, streams, ponds and wetlands. Drainage areas which contain water only during and immediately after a rainstorm, and roadside ditches shall not be considered a watercourse.
- (32) Watershed shall mean the area where water flows into the ground water supply of the Village of Schoharie.
- (33) Watershed tributary to aquifer recharge area (or watershed) shall mean that land area delineated in the overlay map which is the tributary surface from which the aquifer is replenished by run-off to the aquifer recharge area. The boundaries of the overlay are defined as follows: From a point beginning at the intersection of the town lines of Schoharie, Wright (Schoharie County) and Duanesburg (Schenectady County), proceeding southerly along the boundary line of the towns of Schoharie and Wright to a point on that town borderline 500 feet north of State Rout 443 and then proceeding west along a line 500 feet parallel to State Route 443 until a point intersecting the lands of the Niagara Mohawk Power Corporation, and proceeding north along the eastern boundary of said lands to the intersection of said line with State Route 30; continuing along the southern border of State Route 30 to the intersection of State Route 30 and I-88, proceeding east along the southern boundary of I-88 to the town lines of Schoharie and Duanesburg (Schenectady County), following said town line east to the point of beginning.
- (34) Water supply shall mean the public water supply of the Village of Schoharie.
- (35) Well shall mean any present and future excavation used as a source of public water supply which derives water from the interstices of the rocks or soils which it penetrates including bored wells, drilled wells, and driven wells and excluding ditches or tunnels that lead ground water to the surface by gravity.

Section 3. General Prohibitions No person, including state agencies or political subdivisions having jurisdiction, shall perform any act or grant any permit or approval which may result in the contravention of the standards for raw water quality as contained in Part 170 Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10NYCRR Part 170).

Section 4. Specific Prohibitions The following specific prohibitions are applicable to the watershed tributary to the aquifer recharge area, or watershed:

4.1 On-Site Subsurface Sewage Treatment:

- (a) All on-site subsurface sewage treatment systems serving single-family residences or facilities with flows of less than 1,000 gallons per day shall be designed, installed and maintained in accordance with the Schoharie County Sanitary Code and the standards promulgated in the Schoharie County Sanitary Code. The applicable standards and permit requirements of the New York State Department of Environmental Conservation shall apply to systems which flows equal to or in excess of 1,000 gallons per day or those which contain industrial wastewater.
- (b) A permit is required prior to the installation of any new subsurface sewage treatment systems where none existed prior to the adoption of this regulation or where a building has a change in character (e.g., residential to commercial use). This permit must be obtained from the appropriate state or local agency having jurisdiction. Conditions for a permit shall include a percolation test, approved design, inspection of the installation prior to backfilling, and the issuance of a Certificate of Approval.

- (c) No portion of the new subsurface sewage treatment system shall be constructed or placed within 250 feet linear distance of the aquifer recharge area. No subsurface sewage treatment system shall be constructed or installed unless there is at least five feet of acceptable overburden between the bottom of the seepage unit and creviced or fissured rock. Acceptable fill material may be placed in accordance with generally accepted standards to achieve this separation.
- (d) Where rapid percolation is indicated, such as rock fissures, the use of subsurface disposal systems may be prohibited.
- (e) The use of sewage system cleaners or additives is prohibited.

4.2 Point Source Discharge: Point source discharges to the tributary streams are prohibited unless tertiary treatment or equivalent is provided for domestic wastewaters. A permit is required prior to the installation of a point source discharge from the state or local agency having jurisdiction.

4.3 Storm Sewer Outlets: No new storm sewer outlets shall discharge within 100 feet of the aquifer recharge area.

4.4 Snow Disposal: The dumping of snow removed from streets, roads and parking areas directly into streams or within 250 feet of the aquifer recharge area is prohibited.

4.5 Refuse Disposal Areas and Junkyards:

- (a) No refuse shall be deposited on or beneath the surface of the ground within a 250 foot linear distance of the aquifer recharge area.
- (b) Refuse or solid waste disposal facilities shall be prohibited.
- (c) No junkyards shall be located within 250 feet linear distance of the aquifer recharge area. New junkyards are prohibited.

4.6 Animal Wastes:

- (a) No concentration of animal wastes from an agricultural operation including but not limited to manure piles, feedlots, barnyards, and yarding areas, shall be located with 250 feet linear distance from the aquifer recharge area.
- (b) Drainage from barnyards, feedlots, yarding areas or manure piles shall not be discharged directly to watercourses or to the aquifer recharge area. Such drainage shall be dispersed over the surface of the ground at a minimum distance of 250 linear feet from any watercourse or from the aquifer recharge area.
- (c) Provisions shall be made for satisfactory disposal of milk house waste either by surface or subsurface irrigation that prevents any discharge to any watercourse or the aquifer recharge area. Such facilities shall be located at least 100 feet linear distance from any watercourse or aquifer recharge area. No subsurface irrigation is allowed unless there is at least five feet of overburden above bedrock.
- (d) Manure shall not be spread on frozen ground if there is any likelihood that surface run-off will be carried into streams or the aquifer. Burial of manure, excluding normal tilling practices, is prohibited.

4.7 Septage and Sludge Disposal: The disposal of septage, sludge or human excreta into any watercourse, on the surface of the ground or by underground burial is prohibited.

4.8 Industrial Sludges and Toxic Chemicals:

- (a) No industrial sludges and toxic chemicals shall be stored except under permit by the New York State Department of Environmental Conservation.
- (b) Disposal of industrial sludges and toxic chemicals is the responsibility of the owner or operator of the storage facility.
- (c) Industrial sludges and toxic chemicals shall not be buried in the soil, spread upon the surface of the ground, allowed to enter ground waters, or discharged to watercourses.
- (d) Transportation of toxic chemicals is prohibited except under permit of New York State Department of Transportation and in conformity with the requirements of Article 2, Section 14-f of the Transportation Law and all regulations adopted pursuant to that statute.

4.9 Radioactive Material: Disposal of radioactive material is prohibited.**4.10 Fertilizer Use:**

- (a) Open storage of artificial fertilizers for commercial use is prohibited.
- (b) Agricultural use of fertilizers shall be in conformance with best management practices as developed by the New York State Soil and Water Conservation Committee and implemented by the preparation and use of farm plans as required by the Soil and Water Conservation District Law, Article 2, Section 9, subdivision 7a.
- (c) Fertilizer use for non-farm and non-residential application shall be in accordance with best management practices as developed under item 4.10 (b) above.
- (d) The injection of liquid fertilizer into the ground shall be in accordance with best management practices as developed under item 4.10 (b) above.

4.11 Pesticide and Herbicide Use:

- (a) All pesticide and herbicide storage, use and application shall be under permit as provided in New York State Environmental Conservation Law, Article 33.
- (b) Disposal of container or unused pesticides and herbicides is prohibited except in accordance with the permit issued indicated under item 4.11 (a) above.
- (c) Use of streams or watercourses for make-up or washing of equipment is prohibited.

4.12 Accidental Spills:

- (a) Oil spills shall be reported and cleaned up immediately pursuant to the navigation Law, Article 12, Sections 170 through 197.
- (b) Spills of any other materials stored in bulk shall be reported as required by New York State Environmental Conservation Law, Article 17, Section 1743. Clean-up of spills is the responsibility of the carrier.
- (c) The Schoharie County Department of Health, the Town Board of Schoharie and the Board of Trustees of the Village of Schoharie shall be advised of any accidental spills immediately.
- (d) Storage of petroleum products or any other contaminating material is prohibited unless measures have been taken to insure that leakage will not occur.

4.13 Stockpiles: Storage of chloride salts and sand/salt mixtures is prohibited within a five hundred (500) linear foot distance of a watercourse or the aquifer recharge area except in weather-proof buildings or water-tight vessels.**4.14 Deicing Salt Application:** Deicing salt use is permitted if restricted to the minimum amount needed for public safety in accordance with best management practices developed by the New York State Department of Transportation.**4.15 Cemeteries:** No interment of a human body shall be made within a linear distance of two hundred fifty (250) feet of a watercourse or the aquifer recharge area.

4.16 Sediment Generation:

- (a) Farm tillage practices shall be in conformance with best management practices as developed by the New York State Soil and Water Conservation Committee and implemented by the preparation and use of farm plans as required by Soil and Water Conservation District Law, Article 2, Section 9, subdivision 7a.
- (b) All farms shall have an operational farm plan pursuant to item (a) in place within one year of the adoption of these regulations.
- (c) Soil erosion and sediment production by stream and road bank erosion shall be evaluated by the Schoharie County Soil and Water Conservation District and appropriate remedial action taken where needed.
- (d) All land disturbing activity including general construction, highway construction, access road construction and maintenance is prohibited except where remedial measures have been put in place to minimize erosion and sediment production, and to prevent the exposure of bedrock.

Section 5. Specific Prohibitions Within the Aquifer Recharge Area Except to the extent that more stringent standards or regulations are set forth in this Subdivision all regulations applicable to the watershed shall apply to the aquifer recharge area.

5.1 Subsurface Treatment Systems: The construction and installation of subsurface sewage treatment systems is prohibited.

5.2 Snow Disposal: The stockpiling or dumping of snow removed from streets, roads and parking areas on the ground surface within the aquifer recharge area is prohibited.

5.3 Refuse Disposal Areas and Junkyards: The establishment of refuse disposal areas or junkyards is prohibited.

5.4 Animal Wastes: The disposal of farm animal waste is prohibited.

5.5 Fertilizer Use: The use of artificial fertilizer is prohibited.

5.6 Pesticide and Herbicide Use: The use of pesticides or herbicides is prohibited.

5.7 Underground Storage Tanks and Pipelines:

- (a) The construction, placement or replacement of underground tanks, containers or pipelines for petroleum products or any other pollutant is prohibited.
- (b) All persons owning property containing such underground storage tanks or containers shall notify the Town of Schoharie Code Enforcement Officer of their existence and location.

5.8 Stockpiles: Storage of chloride salt is prohibited.

5.9 Cemeteries: The establishment of new cemeteries is prohibited.

5.10 Land Application of Sewage: Land application of sewage or wastewater is prohibited.

5.11 Underground Injection: Underground injection of **any pollutant** including, but not limited to sewage wastewater is prohibited.

5.12 Stormwater Run-Off Recharge Basins: Use of recharge basins is prohibited.

5.13 Land Application of Septage and Sludge: Land application of septage and sludge is prohibited.

5.14 Wastewater Lagoons and Pits: Use of wastewater lagoons and pits for temporary storage of sewage is prohibited.

5.15 Excavations: Excavations or cut-ins which expose groundwater permanently or during maximum elevation of the water table, or which significantly reduce the thickness of soil cover and thereby ease the entrance of contaminants into the groundwater are prohibited.

5.16 Mining: The establishment of sand and gravel or limestone mining operations is prohibited.

5.17 Public Utility Transmission: The construction of new overhead transmission lines, liquefied natural gas lines or other pipelines for materials that may impair water quality is prohibited.

5.18 Oil and Gas Wells: The construction of oil and gas wells is prohibited.

5.19 Improperly Constructed or Abandoned Wells: All water supply wells and abandoned wells shall meet the requirements of 10NYCRR Appendix 5-A entitled "Recommended Standards for Water Works", 10NYCRR Appendix 5-B entitled "Rural Water Supply" and the state and local agency having jurisdiction.

5.20 Industrial Sludges and Toxic Chemicals: The establishment of industrial sludge and toxic chemical storage, and disposal facilities is prohibited.

Section 6. Spring Resurgence Protection Area All systems, facilities, and activities are prohibited except for collection, treatment, control and transmission of water. The area shall not be used for any other purpose than water supply.

Section 7. Variances

- (1) The Zoning Board of Appeals for the Town of Schoharie may, on written application and after review, grant a variance from a specific provision of these Watershed Rules and Regulations in specific cases subject to appropriate conditions which shall include a time schedule for compliance where:
 - (i) such variance is in harmony with the general purpose and intent of these Watershed Rules and Regulations;
 - (ii) the Zoning Board of Appeals determines that adequate provisions have been made for the maintenance of the integrity of the water supply system; and
 - (iii) there are practical difficulties or unnecessary hardships in carrying out the strict letter of the provision.
- (2) The State Commissioner of Health may authorize the Zoning Board of Appeals in writing, to issue variances on his behalf, subject to such limitations as he deems appropriate.
- (3) A copy of any variance and time schedule approved by the Town of Schoharie Zoning Board of Appeals shall be submitted to the State Commissioner of Health at the time of issuance.

Section 8. Inspection The Town Board of Schoharie or any person or persons that it designates may make regular and thorough inspections of the land within the Barton Hill Overlay District to ascertain whether the rules and regulations set forth in this section are being complied with. It shall be the duty of the aforesaid Town Board to cause copies of any rules and regulations violated to be served upon the persons violating the same together with notices of such violations. If such persons served do not immediately comply with the rules and regulations, the Town Board shall notify the State Commissioner of Health of such violations and may enforce compliance pursuant to Article 2 of the Zoning Law including penalties, fines and injunctive relief as set forth in said Article.